

**PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING
April 25, 2006**

Place: Room 206
Town Hall

TIME: 8:00 PM

PLANNING AND ZONING COMMISSION MEMBERS ATTENDING:
Conze, Forman, Spain, Bigelow

STAFF ATTENDING: Ginsberg
COURT RECORDER: Syat

At 8:00 P.M., Vice-Chairman Conze read the first agenda item:

Business Site Plan #245, HSBC, 151-165 Boston Post Road. Proposing to establish a bank with associated parking and landscaping and perform related site development activities. The subject property is located on the north side of Boston Post Road, approximately 100 feet east of its intersection with Richmond Drive, and is shown on Assessor's Map #12 as Lots #36 & #37 in the SB-E Zone.

Mr. Conze explained that there were only three Commission members present at this time, and they were waiting for Mr. Bigelow to arrive. He then asked for a 20 minute recess to give Mr. Bigelow more time. At 8:20 p.m., Mr. Bigelow arrived at the meeting. At that time, Mr. Ginsberg noted that Mr. Bigelow will be recusing himself on the HSBC matter and that there would not be four Planning & Zoning Commission members present to hear the application. Attorney Wilder Gleason, representing the applicants, also confirmed that the hearing would need to be continued to another night. He suggested May 2 rather than May 9, when he had a conflict. Mr. Bigelow then made a motion to continue the public hearing to May 2, 2006 at 8:00 p.m. in Room 206 of Town Hall. That motion was seconded by Ms. Forman, and unanimously approved.

Mr. Conze then read the next agenda item:

Coastal Site Plan Review #215, Flood Damage Prevention Application #234, Douglas & Rebecca Munro, 102 Ring's End Road. Proposing to construct additions and alterations to the existing residence and perform related site development activities within regulated areas. The subject property is located on the west side of Ring's End Road, approximately 210 feet north of its intersection with Goodwives River Road, and is shown on Assessor's Map #51 as Lots #1 & #2 in the R-1 Zone.

Mr. Ginsberg summarized the proposal and noted that the record included a recent EPC approval and a letter from Judy Groppa of the Darien Historical Society. He noted that there is a need for continuance of this public hearing to allow the Commission to formally receive the ZBA's variance decision on the Munro's proposed additions. He said that the ZBA meets tomorrow.

Attorney Wilder Gleason of Gleason & Associates was present on behalf of the Munros. He showed copies of the plans, and explained that the existing house is in Flood Zone AE 13. The house was constructed in the 1670s. The exterior of the house is now not in keeping with the interior, and that there is now a lack of storage space. They propose to put the oil tank in the garage

PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING
APRIL 25, 2006
PAGE 2

and strap it down. They also propose to add 75 square feet of living space and new dormers are proposed as well as new garage doors. There will be air conditioning in the house and the HVAC units will be located above the flood elevation. Mr. Gleason added that all mechanical units will be raised, including the furnace and the washer and dryer. He explained that there are no coastal or flood issues as part of this application, and he then distributed a copy of the Stearns & Wheler Site Plan, which showed the location of the proposed silt fence and the proposed sewer lateral. Mr. Gleason noted that on the plan they showed three trees, which will be Japanese black pines.

Mr. Gleason suggested that he may not even need a variance, as the builder has said as the cost of the improvements are about \$237,000 which is less than half the cost of the existing residence. He submitted a copy of the builder's letter for the record. Mr. Spain summarized by noting that this proposal is making the existing residence more compliant with local regulations. Mr. Gleason agreed, and noted that the house is within 100 feet of mean high water and that the silt fence will minimize any or all potential coastal impacts. Ms. Becky Munro of 102 Ring's End Road then said she has spoken to many of the neighbors about the project and submitted "sign-off sheets" from the neighbors as well as the Eliotts, who also reside on the property. There were no further questions or comments from the Commission members or the general public.

Mr. Bigelow then made a motion to continue the public hearing to May 2, 2006 at 8:00 p.m. in Room 206 of Town Hall to allow the Commission to receive any comments or required variances from the Zoning Board of Appeals. That motion was seconded by Mr. Spain and unanimously approved.

Mr. Conze then read the next agenda item:

Land Filling & Regrading Application #160, Salvatore & Jennifer Materia, 93 Mansfield Avenue. Proposing filling, regrading, and installation of retaining walls and performing related site development activities. The subject property is located on the west side of Mansfield Avenue, approximately 20 feet northwest of its intersection with Roland Drive, and is shown on Assessor's Map #17 as Lot #27 in the R-1/3 Zone.

Mr. Ginsberg summarized Mr. Materia's proposal and explained that he had already been to the Environmental Protection Commission (EPC) and Zoning Board of Appeals (ZBA) and had received approvals from each of those Boards. Mr. Ginsberg explained that the main issue tonight is drainage, and Mr. Materia has included a drainage report from professional engineer John Martucci.

Mr. Sal Materia, the property owner, explained his proposal and said that the proposed fill is in two areas: the back near the stone wall, and in the side yard. There will be in the range of 0-24 inches of fill in the back yard area. Mr. Materia explained that he had received EPC and ZBA approvals. He added that the second area of proposed filling and regrading is on the side yard south side, adjacent to 91 Mansfield/the Spangenburg property. In this area, there will be a proposed retaining wall with fill. He then noted that there were ZBA stipulations specifically related to this area.

Mr. Spain said to Mr. Materia that the trees on that 91 Mansfield Avenue property have roots on Mr. Materia's property. Mr. Materia confirmed that that was true. Mr. Materia again noted the two ZBA stipulations and said that John Martucci has done a drainage report regarding his proposal. He

PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING
APRIL 25, 2006
PAGE 3

said that Mr. Martucci was present at the EPC meeting and that the EPC approved a very detailed landscaping plan. Mr. Spain asked whether there would be any work done west of the wetlands. Mr. Materia responded that there would not be. Mr. Ginsberg noted the very significant grade change between the house location and the wetlands, which are a 20 foot difference in elevation.

Ms. Adela Carney was present representing the Spangenburgs of 91 Mansfield Avenue directly to the south of this property. She said that her goal is to achieve remediation of the existing problem. She then referred to the December 21, 2005 letter from David Keating, Zoning Enforcement Officer, to Mr. Materia. She then read aloud from portions of that letter. She also submitted photographs taken earlier today. Mr. Spain then asked Mrs. Carney if the fence is on the property line. Ms. Carney responded that it is very close to the property line but slightly on their property. She only objects to the infringement on the trees and believes that four feet needs to be secured.

Mr. Materia responded that the EPC approval was granted and that there is a 15 foot filling and regrading setback from property lines. Mr. Ginsberg also specifically referred to the EPC approval. Mr. Bigelow mentioned that the EPC approval does not refer to neighbor agreements. He said that the neighbor's trees need to be restored to survive to be like they were before the disturbance. He said that a silt fence installation would be a big improvement over existing conditions. Mr. Materia added that he has hired an arborist for an opinion on the trees.

Mr. Conze believes that a way to solve this would be to have a temporary solution prepared for staff review and action. A permanent solution to this matter could come later on. He said that the Commission may be able to issue a permit for that much. Mr. Bigelow said that any permanent solution should incorporate input from the arborist. Mr. Conze said that staff will review a temporary plan prepared by Mr. Materia, and Mr. Conze suggested keeping the public hearing on this matter open to receive any temporary and permanent plans. Mr. Spain mentioned that a violation has occurred, and that this temporary plan would be an interim correction of the problems.

Mr. Ginsberg then asked Mr. Conze to clarify what the Commission was looking for from Mr. Materia. Mr. Conze responded that Mr. Materia is to work with Commission staff on preparing a temporary restoration plan, and to submit that to staff for their review and approval. If that plan is consistent with the desires of remediating the situation regarding the trees, then Mr. Materia can start that work to create the temporary solution. Then the Planning and Zoning Commission will consider a more permanent solution at a continuation of this public hearing. Ms. Forman then made a motion to continue the public hearing on this matter to May 9, 2006 in Room 206 of the Town Hall at 8:00 p.m. That motion was seconded by Mr. Bigelow and unanimously approved.

At 9:25 P.M., Mr. Conze then read the next agenda item:

Coastal Site Plan Review #65-A, Guy W. Fiske, 85 Ring's End Road. Proposing to construct additions and alterations to the existing residence, construct an on-grade terrace, and perform related site development activities within a regulated area. The subject property is on the north side of Ring's End Road, approximately 950 feet east of its intersection with Swift's Lane, and is shown on Assessor's Map #50 as Lot #17 in the R-1 Zone.

Mr. Ginsberg summarized the application noting that they are asking for coastal site plan review and that an EPC approval for this project was recently received. The proposal is for additions and

PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING
APRIL 25, 2006
PAGE 4

alterations to the existing residence. Mr. Mark Lebow of William W. Seymour & Associates was present on behalf of the Fiskes. He confirmed that EPC had approved the application, and that they are proposing a 680 square foot addition with a 140 square foot masonry terrace. There will be no work done below the flood elevation. A silt fence will be installed and if properly maintained, will minimize erosion. He showed boards of photographs of the property as well as the site plan. This site plan showed the location of the flood zone line and the proposed additions.

Mr. Philip Wright of 79 Ring's End Road then spoke in favor of the project. There being no questions or comments from Commission members or the general public, Mr. Spain made a motion to close the public hearing on this matter. That motion was seconded by Ms. Forman and unanimously approved.

At about 9:30 P.M., Mr. Conze then read the next agenda item:

Coastal Site Plan Review #125-D, Flood Damage Prevention Application #123-D, John B. Ward, 32 Beach Drive. Proposing to repair and maintain an existing seawall and concrete boat launch ramp and perform related site development activities within regulated areas. The subject property is on the west side of Beach Drive, approximately 230 feet south of its intersection with Outlook Road, and is shown on Assessor's Map #53 as Lot #6 in the R-1/2 Zone.

Mr. Ginsberg explained the proposal before the Commission this evening and mentioned that EPC approval had been granted to repair and maintain an existing seawall. That EPC approval contained a number of conditions. He mentioned that Mr. Ward had submitted an application a few months ago to Planning & Zoning, but it was realized that he needed to go to the EPC first. That application had therefore been withdrawn.

Mr. Devon Santa, professional engineer from Roberge Associates Coastal Engineers, was present on behalf of the Wards. He noted that the application is for seawall reconstruction. The seawall is 62 feet long with a boat ramp, and has deteriorated over time. There will be no further waterward expansion as part of this proposal. The proposal has been formally approved by the State of Connecticut Department of Environmental Protection (DEP), and the Army Corps of Engineers. He said that the Darien Environmental Protection Commission required a planting plan to mitigate runoff. There will be no change in the height of this wall as part of this proposal.

There were no questions or comments from Commission members or the general public on this application. Mr. Spain then made a motion to close the public hearing on this matter. That motion was seconded by Ms. Forman and unanimously approved.

Mr. Conze then read the next agenda item:

Land Filling & Regrading Application #161, Wendell Anderson, 36 Huckleberry Lane. Proposing to place fill between the garage and the property line, and construct and associated retaining wall, and perform related site development activities. The subject property is on the south side of Huckleberry Lane, approximately 950 feet east of its intersection with Brookside Road, and is shown on Assessor's Map #1 as Lot #79 in the R-2 Zone.

PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING
APRIL 25, 2006
PAGE 5

Mr. Ginsberg explained that the proposal is related to the construction of a new residence that includes filling and regrading near a property line. The main issues are drainage and screening, which he believed have been worked out between Mr. Anderson and the closest affected neighbor.

Mr. Anderson confirmed that there are two issues before the Commission this evening--drainage and screening. He explained that he is trying to run the water via gravity to a catch basin. He believes that he is in agreement with the adjacent neighbor on a 6 inch to 18 inch high retaining wall which is a fairly permanent solution. A number of 6 to 8 foot high spruces will be planted zig-zag in this general area, with a 3 foot gap at the most. He then showed photographs of the property showing the grade changes. He noted that he had lowered the garage elevation. In response to a question, Mr. Anderson said that the Belgian block apron will prevent water from Huckleberry Lane getting into the driveway. He explained that he was working closely with Mr. Bieler on a solution to the concerns. Mr. Spain then asked about maintenance of any installed drainage systems. Mr. Anderson responded that there will be a check valve installed and that the gutters will tie into the storm drains. Mr. Spain then asked about any water flow going into his garage. Mr. Anderson said that it may be slightly alleviated by raising the garage a foot.

Mr. Andy Bieler of 32 Huckleberry Lane said that he will get screening coverage from the proposed spruce trees agreed to by Mr. Anderson. After a brief discussion, Mr. Anderson agreed that the installation of a drain in the middle of the driveway pad at approximately elevation 97.7 may also be an option and that the elevation of the driveway pad should be about the same so there is a low point in the middle. Mr. Bieler said that he approves of the garage being a foot higher. Mr. Anderson confirmed that there would be a drain in the middle of the driveway pad with a 6 inch change and the retaining wall will be 7 feet from the property line.

There being no further questions or comments from Commission members of the general public, the public hearing on this matter was then closed.

At about 9:50 P.M., Mr. Conze then read the next agenda item:

Business Site Plan #124-E/Special Permit, Ching's Kitchen/Dolcetti Inc., 973 Boston Post Road. Proposing to install a walk-in refrigerator adjacent to the rear of the existing building and continue the use of a portion of the third floor for restaurant storage space. The subject property is on the north side of Boston Post Road, approximately 225 feet east of its intersection with Day Street, and is shown on Assessor's Map #73 as Lot #30 in the CBD Zone.

Mr. Ginsberg explained the proposal for a walk-in refrigerator freezer as well as third floor storage for the restaurant. He noted that staff has no concerns regarding these issues and they are not likely to greatly intensify the use. He added that the Zoning Board of Appeals approved this request with no conditions. Mr. Ginsberg said that the applicant had recently agreed to install a water wash system to address the venting issue, and the applicant was working closely with the Darien Health Department.

Ms. Amy Garvin of Maslan Brown & Associates was present to formally present the application. She submitted copies of the duct work details, as well as prior Zoning Board of Appeals and Planning & Zoning Commission approvals. She noted that Ching's has proposed to occupy the site formerly occupied by Dolcetti's Restaurant on Boston Post Road. Dolcetti's Restaurant had used

PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING
APRIL 25, 2006
PAGE 6

the third floor space in the past for their restaurant storage. This request is for a modification of the existing Business Site Plan and Special Permit to add a walk-in refrigerator/freezer as well as to have this upstairs storage be used for the restaurant.

Mr. Spain noted that this proposal came to the Commission informally a few months ago and said that in that informal discussion there was comments about the proposed ventilation. Ms. Garvin responded that the Dolcetti's and Mr. Lee have worked closely with the Health Department and have agreed to install a "top of the line" water wash system to address ventilation. Mr. Spain asked whether the Health Department has approved these plans and Ms. Garvin responded that they have. Mr. Bigelow asked whether the amount of seating will be the same as part of this proposal. Ms. Garvin responded that the proposed seating will increase from 38 to 50 seats.

There being no further questions or comments on this application by the Commission or the general public, Mr. Bigelow made a motion to close the public hearing on this matter. That motion was seconded by Ms. Forman and unanimously approved. The public hearing was then closed.

There being no other business, Mr. Bigelow then made a motion to adjourn the meeting. That motion was seconded by Ms. Forman, and unanimously approved. The meeting was then adjourned at 10:05 P.M.

Respectfully submitted,

Jeremy B. Ginsberg
Planning & Zoning Director

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